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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,504	03/28/2001	Brian N. Sawyer	04816P003	5218
8791	7590	07/02/2004	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD, SEVENTH FLOOR LOS ANGELES, CA 90025			BAYERL, RAYMOND J	
			ART UNIT	PAPER NUMBER
			2173	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/821,504

Applicant(s)

SAWYER, BRIAN N.

Examiner

Raymond J. Bayerl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 7, 10 - 15, 17 is/are rejected.
- 7) ☒ Claim(s) 8 - 9, 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 03 May 2004 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1 – 4, 7, 10 – 15, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Ono et al. ("Ono"; US #5,668,966 A).

As per independent claim 1 (see also independent claim 12), Ono's SYSTEM AND METHOD FOR DIRECT MANIPULATION OF SEARCH PREDICATES teaches the creation of a primitive predicate by inputting search items (that is, file attributes) (Abstract), which may be represented as an icon representing the predicate (col 4, lines 53 – 59). Thus, Ono anticipates "defining a library of available criteria" by the initial creation of predicates, "to be used in filtering a population of items to identify items of interest, each criterion having a graphical representation".

As for "receiving a selection of at least one of the criteria", please note the style of direct manipulation interface provided in Ono: the user can create a logical operation expression for identifying search conditions by presenting, as a folder, a composite predicate representing a logical operator, and dragging and dropping an icon representing a predicate in the folder (col 4, lines 37 – 52). By choosing a particular composite predicate from among those represented by the tree structure of figs 4B, 8, "an indication of a tier of the filter" is made, in which to place the predicate. Then, in the [a]pplication of a predicate (col 12, line 51ff), Ono teaches "identifying a list of items of interest satisfying a current set of criteria defining the filter", which will be displayed (see also claims 4, 15). The graphical illustration of predicate creation (see figs 11 – 14), Ono provides "a graphical indication of the filter while the filter is constructed", as in the

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working display of figs 4C, 11, in which the containership of the graphical objects reflects the tree structure of the composite predicate being developed.

The inclusion of a primitive predicate into a composite predicate, as referenced above, is one in which "a graphical representation of the selected criterion is merged with a graphical representation of the indicated tier" (claims 2, 13); note in particular the identically-disclosed product-of-sum "Boolean OR"/"Boolean AND" structure, as in claims 3, 14. A "tier" in Ono is shown by OR'ed-together groups of predicates such as those appearing in figs 4B, 4C. Because the intermediate composite predicate terms in Ono may be individually manipulated and used to search a database collection, "an indication of one of the tiers of the filter" may be selected and evaluated to generate "a group of items" (claims 7, 17).

Thus, "user customizable filter criteria" (claim 10) are built with the Ono interface, these forming a "predefined" "library of available criteria" (claim 11), in the form of primitive predicates that are then available for further processing.

3. Claims 5 – 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono.

As per claim 5's "tally of the list of items of interest" and claim 6's "displaying the tally of the list", while Ono must display something in the way of a results set, Ono does not **explicitly** teach a numerical "tally". However, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to provide such a count when returning results, so that the user will have a better appreciation of the

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magnitude of what the "filter" has found. Indeed, in presenting search results of any kind, Ono suggests the provision of some indication of numeric extent for the answers.

4. Claims 8 – 9, 16 are allowable over the prior art now made of record (see attached form PTO-892). The reasons are those given in paragraph 7 of the previous Office Action, mailed 28 October 2003.

5. Applicant's arguments filed 3 May 2004 have been fully considered but they are not persuasive.

In the paragraph bridging pages 6, 7, applicant argues that because "Ono teaches that primitive predicates may be created using a predicate creation system", "Applicant has been unable to discern any part of Ono that teaches to define a library of available criteria". However, in the composite predicate production of Ono, the mere retention of a group of such primitives in some form of buffered storage prior to their conjunction is enough to read upon a reasonably-broad interpretation of "library of available criteria", which is a stored collection that is accessed at a later time.

Applicant then argues at page 7 that "Applicant has been unable to discern any part of Ono that teaches a tree structure presented as a graphical representation to a user", since the "tree structure of Figure 4B" "is inaccurate"; "a conceptual representation" of what appears in the "nested folder structure shown in Figure 4C". However, even if the "tier" relationship as seen in Ono's fig 4B is transformed for drag-and-drop manipulation into a display such as 4C's, the tree structure is preserved, in the containership of the AND and OR boxes that are used with the predicates.

Further regarding the "tier" hierarchy, applicant argues at page 8 that "the Examiner has failed to establish Ono teaches applying an AND across different tiers". However, as noted in the previous discussion, and as seen in "conceptual" form in fig 4B, the "AND" function operates upon two different levels, or "tiers" of the Ono tree. This AND-ing, when directed from the Ono user interface, will perform the same operation within the graphical analogy.

Regarding the 35 USC 103 rejection that relies solely upon Ono, applicant finally argues that "Applicant has been unable to discern any part of Ono that teaches the benefit of the use of a tally", and that "the Examiner provides no support from any reference for this bold assertion". However, in Ono's filtering of a collection via SEARCH, an answer set is invariably returned, this having a size or item count. The characteristic of search results to assume these varying magnitudes would have provided the motivation needed to one skilled in the art, to supply the missing "tally".

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (703) 305-9789. The examiner can normally be reached on M - F from 10:00 AM to 5:00 PM.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (703) 308-3116. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (703) 872-9306.

9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

  
RAYMOND J. BAYERL  
PRIMARY EXAMINER  
ART UNIT 2173

30 June 2004  
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